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April 3, 2020

VIA EMAIL: Patrick.Beath@CityofRochester.Gov

Patrick Beath

Deputy Corporation Counsel

City of Rochester - Law Department

City Hall - Room 400A

30 Church Street

Rochester, New York 14614

**Re: Preservation of Evidence Related to incident between
RPD and Daniel Prude on or about March 23, 2020**

To Whom It May Concern:

My office has been contacted by Joe Prude, regarding the death of his brother, Daniel Prude, following an interaction with Rochester Police Department officers on or about March 23, 2020 at approximately 3:00 a.m. in the vicinity of Jefferson Avenue, Rochester, New York. Mr. Prude sustained fatal head injuries and was transported to Strong Memorial Hospital, where he died as a result of his injuries. A portion of the interaction was captured on video, and was posted to Facebook:

<https://www.facebook.com/frederico.krueger.35/videos/pcb.251848249544753/251847842878127/?type=3&theater>.

I write to provide you notice that all evidence related to the incident wherein Mr. Prude interacted with RPD officers on or about March 23, 2020, the events leading up to the incident, his transportation to Strong Memorial Hospital, and any investigation into the incident may be relevant to future litigation against the City of Rochester and the RPD officers involved in the incident. You must preserve all video recordings of the incident, as they are directly relevant to the potential civil claims. Specifically, any videos from body cameras worn by the officers at the scene and any officers who interacted with Mr. Prude in any way, or the events leading up to the incident and immediately following the incident, must be preserved. Further, you must preserve any other video recordings in your possession, such as Blue Light Camera recordings or security camera recordings from private businesses that may have been collected by the RPD.

Please be advised that as an attorney, you have a personal obligation to preserve all paper and electronic evidence that is in any way related to this incident. *Zubulake v. UBS*, 220 F.R.D. 212, 216 (S.D.N.Y. 2003). To the extent any evidence is lost or destroyed, you may be personally subject to a range of sanctions as part of the civil litigation, including cost shifting or fines, adverse inferences or preclusion of evidence, dismissal or default judgment. *Casale v. Kelly*, 08 Civ. 2173 (SAS), 05 Civ. (SAS), 2010 U.S. Dist. LEXIS 40606, at *7 (S.D.N.Y. Apr. 26, 2010). Importantly, you must preserve all video recordings of the incident, all paperwork mentioning or describing said video recordings; all paperwork created as a result of Mr. Prude's arrest, including arrest reports, incident reports, subject resistance reports, Rough Notes/handwritten notes, and other paperwork documenting the arrest and force used against Mr. Prude and any investigation of the incident.

I hope that based upon this letter, appropriate measures will be taken to preserve all evidence that may be relevant to Mr. Prude's possible civil claims so that we can minimize litigation disputes regarding spoliation of evidence in the future.

Thank you for your cooperation with these matters. Please contact me if you would like to discuss these issues.

Very truly yours,

~//s//~

Elliot Dolby Shields, Esq.

CC:

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